

AUGUST 22, 2003  
EXECUTIVE DEPARTMENT  
STATE OF MARYLAND



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**PERSONAL AND CONFIDENTIAL**

August 22, 2003

Re: [REDACTED] trip

Dear [REDACTED]

Pursuant to my conversations with Chief of Staff Richard Proctor, at its August 21, 2003 meeting, the State Ethics Commission considered the issue of the [REDACTED] offer to you to participate in the October 2003 [REDACTED] mission to [REDACTED]. Specifically, the Commission considered whether Public Ethics Law § 15-505 permits a public official to accept such a gift from [REDACTED] which is not a controlled donor, when [REDACTED] which is a regulated lobbying entity, is involved in making the travel and touring arrangements.

After considerable discussion and a review of past opinions involving similar trips sponsored by the [REDACTED] and various family foundations, the Commission concluded that the [REDACTED] gift is permissible within the confines of specific restrictions.

Public Ethics Law § 15-505(b) broadly prohibits an official or employee from knowingly accepting a gift, directly or indirectly, from an entity that the official or employee knows or has reason to know: 1) does or seeks to do any business of any kind, regardless of amount, with the official's or employee's governmental unit; 2) engages in an activity that is regulated or controlled by the official's or employee's governmental unit; has a financial interest that may be affected substantially and materially, in a manner distinguishable from the public generally, by the performance or nonperformance of the official's or employee's official duties; or 4) is a regulated lobbyist with respect to matters within the jurisdiction of the official or employee.

[REDACTED]  
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Subsection (c) of § 15-505 sets forth certain exceptions to the broad prohibitions in (b) that permit an official or employee to accept a gift of significant value: 1) if the gift will not tend to impair the impartiality and independent judgment of the official or employee; and 2) the official or employee has no reason to believe that the gift is designed to impair the impartiality and independent judgment of the official or employee.

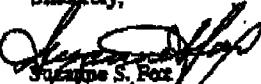
In this case, the sponsor/donor of the gift does not fall within the category of a regulated donor, and [REDACTED] which is coordinating the trip and making all of the travel and tour arrangements, is a regulated registered lobbyist. After a presentation of all of the facts, in coming to its decision, the Commission relied on the fact that it is the [REDACTED] that chooses the participants, provides the funding, and is the driving force behind the mission itself. [REDACTED]'s role is limited to travel and tour arrangements.

The permissibility of the gift, however, depends on the conduct of the participants, sponsor and [REDACTED] throughout the event. Should you find yourself in the position of being "lobbied" by [REDACTED] with respect to issues within the jurisdiction of your department, the characterization of the gift could change from permissible to violative of § 15-505. [REDACTED] which is not a regulated registered lobbying entity could jeopardize its charitable foundation charter and be required to register as a regulated lobbyist; and if [REDACTED] communicates with you in an attempt to influence any executive action and meets the \$100 spending threshold, it may be deemed to have violated § 15-713(8) and possibly § 15-713(3) of the Public Ethics Law. Additionally, any such inappropriate action on the part of [REDACTED] may subject you to an enforcement action requiring you to reimburse the donor for the fair market value of the trip.

As I have had contact with [REDACTED] with regard to this issue, I am copying him on this letter to fully apprise him of the restrictions that must be imposed in order to insure the compliance of the gift with § 15-505 of the Public Ethics Law.

I trust that this letter sufficiently responds to the questions presented by Mr. Proctor in our earlier conversations. If you have any additional questions with regard to this or any other matter involving the Public Ethics Law, please contact me at any time.

Sincerely,

  
Suzanne S. Fox  
Executive Director

cc: [REDACTED]